

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION

JOHN M. GIBSON, SR.,

Petitioner,

Civ. No. 1:11-cv-03018-CL

v.

**ORDER**

COMMISSIONER SOCIAL SECURITY  
ADMINISTRATION,

Respondent.

**PANNER, District Judge:**

Magistrate Judge Mark Clarke filed a Report and Recommendation (#32), and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Petitioner filed objections and I have reviewed the file of this case *de novo*. 28 U.S.C. § 636(b)(1)(C); McDonnell Douglas Corp. v. Commodore Bus.

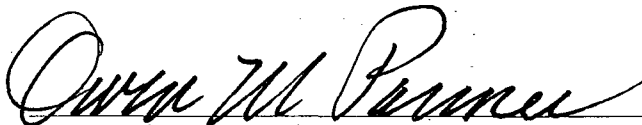
Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981).

I have given this matter *de novo* review. I find no error and ADOPT the Report and Recommendation as to the reduced percentage of attorney's fees.

Plaintiff contends in his Objections that the total past-due benefit award should properly be considered \$220,279.00 based on an auxiliary award of \$61,419.00 made on September 29, 2014. As Plaintiff did not receive the auxiliary award until after briefing on this motion was closed, Magistrate Judge Clarke was not able to consider the additional sum contained therein. The Commissioner does not dispute that Plaintiff would have been able to claim this additional sum in his original motion. I conclude that Plaintiff's counsel is entitled to collect attorney's fees on the auxiliary award as well as the sum claimed in the original motion. Accordingly, Plaintiff's counsel is awarded \$28,636.27, less the \$4,554.89 in previously awarded EAJA fees, which Plaintiff's counsel must refund to Plaintiff. The net result of this exchange is \$24,081.28 in attorney's fees for representation of Plaintiff before this Court.

IT IS SO ORDERED.

DATED this 18 day of November, 2014.

A handwritten signature in black ink, appearing to read "Owen M. Panner", written over a horizontal line.

OWEN M. PANNER  
U.S. DISTRICT JUDGE